



House of Representatives

General Assembly

File No. 235

February Session, 2016

House Bill No. 5378

House of Representatives, March 29, 2016

The Committee on Labor and Public Employees reported through REP. TERCYAK of the 26th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE STANDARD RATE OF WAGES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-57f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) As used in this section: (1) "Required employer" means any
4 provider of food, building, property or equipment services or
5 maintenance listed in this subdivision whose rate of reimbursement or
6 compensation is determined by contract or agreement with the state or
7 any quasi-public agency or any state agent: (A) Building, property or
8 equipment service companies; (B) management companies providing
9 property management services; and (C) companies providing food
10 preparation or service, or both; (2) "state agent" means any state
11 official, state employee or other person authorized to enter into a
12 contract or agreement on behalf of the state or a quasi-public agency;
13 (3) "person" means one or more individuals, partnerships, associations,
14 corporations, business trusts, legal representatives or organized
15 groups of persons; (4) "building, property or equipment service" means

16 any janitorial, cleaning, maintenance, security or related service; (5)
17 "prevailing rate of wages" means the hourly wages paid for work
18 performed within the city of Hartford under the collective bargaining
19 agreement covering the largest number of hourly nonsupervisory
20 employees employed within Hartford County in each classification
21 established by the Labor Commissioner under subsection (e) of this
22 section, provided the collective bargaining agreement covers no less
23 than five hundred employees in the classification; (6) "prevailing rate
24 of benefits" means the total cost to the employer on an hourly basis for
25 work performed within the city of Hartford, under a collective
26 bargaining agreement that establishes the prevailing rate of wages, of
27 providing health, welfare and retirement benefits, including, but not
28 limited to, (A) medical, surgical or hospital care benefits; (B) disability
29 or death benefits; (C) benefits in the event of unemployment; (D)
30 pension benefits; (E) vacation, holiday and personal leave; (F) training
31 benefits; and (G) legal service benefits, and may include payment
32 made directly to employees, payments to purchase insurance and the
33 amount of payment or contributions paid or payable by the employer
34 on behalf of each employee to any employee benefit fund; (7)
35 "employee benefit fund" means any trust fund established by one or
36 more employers and one or more labor organizations or one or more
37 other third parties not affiliated with such employers to provide,
38 whether through the purchase of insurance or annuity contracts or
39 otherwise, benefits under an employee health, welfare or retirement
40 plan, but does not include any such fund where the trustee or trustees
41 are subject to supervision by the Banking Commissioner of this state or
42 of any other state, or the Comptroller of the Currency of the United
43 States or the Board of Governors of the Federal Reserve System; [and]
44 (8) "benefits under an employee health, welfare or retirement plan"
45 means one or more benefits or services under any plan established or
46 maintained for employees or their families or dependents, or for both,
47 including, but not limited to, medical, surgical or hospital care
48 benefits, benefits in the event of sickness, accident, disability or death,
49 benefits in the event of unemployment, retirement benefits, vacation
50 and paid holiday benefits, legal service benefits or training benefits;

51 and (9) "quasi-public agency" has the same meaning as provided in
52 section 1-120.

53 (b) On and after July 1, 2000, the wages paid on an hourly basis to
54 any employee of a required employer in the provision of food,
55 building, property or equipment services provided to the state
56 pursuant to a contract or agreement with the state or any quasi-public
57 agency or any state agent, shall be at a rate not less than the standard
58 rate determined by the Labor Commissioner pursuant to subsection (g)
59 of this section.

60 (c) Any required employer or agent of such employer that violates
61 subsection (b) of this section shall pay a civil penalty in an amount not
62 less than two thousand five hundred dollars but not more than five
63 thousand dollars for each offense. The contracting department of the
64 state that has imposed such civil penalty on the required employer or
65 agent of such employer shall, within two days after taking such action,
66 notify the Labor Commissioner, in writing, of the name of the
67 employer or agent involved, the violations involved and steps taken to
68 collect the fine.

69 (d) The Labor Commissioner may make complaint to the proper
70 prosecuting authorities for the violation of any provision of subsection
71 (b) of this section.

72 (e) For the purpose of predetermining the standard rate of covered
73 wages on an hourly basis, the Labor Commissioner shall establish
74 classifications for all hourly nonsupervisory employees based on the
75 applicable occupation codes and titles set forth in the federal Register
76 of Wage Determinations under the Service Contract Act of 1965, 41
77 USC 351, et seq., provided the Labor Commissioner shall classify any
78 individual employed on or before July 1, 2009, as a grounds
79 maintenance laborer or laborer as a janitor, and shall classify any
80 individual hired after July 1, 2009, performing the duty of grounds
81 maintenance laborer, laborer or janitor as a light cleaner, heavy
82 cleaner, furniture handler or window cleaner, as appropriate, [The]
83 and shall classify any individual employed on and after July 1, 2016, as

84 a housekeeping aide as a light cleaner. Subject to the provisions of
85 subsection (h) of this section, the Labor Commissioner shall then
86 determine the standard rate of wages for each classification of hourly
87 nonsupervisory employees which shall be (1) the prevailing rate of
88 wages paid to employees in each classification, or if there is no such
89 prevailing rate of wages, the minimum hourly wages set forth in the
90 federal Register of Wage Determinations under the Service Contract
91 Act, plus (2) the prevailing rate of benefits paid to employees in each
92 classification, or if there is no such prevailing rate of benefits, a thirty
93 per cent surcharge on the amount determined in subdivision (1) of this
94 subsection to cover the cost of any health, welfare and retirement
95 benefits or, if no such benefits are provided to the employees, an
96 amount equal to thirty per cent of the amount determined in
97 subdivision (1) of this section, which shall be paid directly to the
98 employees. The standard rate of wages for any employee entitled to
99 receive such rate on or before July 1, 2009, shall not be less than the
100 minimum hourly wage for the classification set forth in the federal
101 Register of Wage Determinations under the Service Contract Act plus
102 the prevailing rate of benefits for such classification for as long as that
103 employee continues to work for a required employer.

104 (f) Required employers with employees covered by collective
105 bargaining agreements which call for wages and benefits that are
106 reasonably related to the standard rate of wages shall not be
107 economically disadvantaged in the bidding process, provided the
108 collective bargaining agreement was arrived at through arms-length
109 negotiations.

110 (g) (1) The Labor Commissioner shall, in accordance with subsection
111 (e) of this section, determine the standard rate of wages for each
112 classification on an hourly basis where any covered services are to be
113 provided, and the state agent empowered to let such contract shall
114 contact the Labor Commissioner at least ten days prior to the date such
115 contract will be advertised for bid, to ascertain the standard rate of
116 wages and benefits and shall include the required number of hours
117 necessary for the performance of such contract and the standard rate of

118 wages and benefits on an hourly basis for all classifications of
119 employment in the proposal for the contract and shall include a
120 worksheet, in a form prescribed by the commissioner, listing the cost
121 details of such required number of hours. The standard rate of wages
122 [on an hourly basis] and benefits shall, at all times, be considered the
123 minimum rate for the classification for which it was established.

124 (2) Each required employer shall indicate in a proposal for a
125 contract or agreement with the state or any quasi-public agency or any
126 state agent for the provision of food, building, property or equipment
127 service whether the employees providing such food, building,
128 property or equipment service are covered by collective bargaining
129 agreements and, if so, such required employer shall provide a copy of
130 such collective bargaining agreements to the state or quasi-public
131 agency or state agent.

132 (h) Commencing on and after October 1, 2017, and not later than
133 each October first thereafter, the administrator shall announce an
134 adjustment in the standard rate of wages that shall be equal to (1) the
135 percentage increase between the last complete calendar year and the
136 previous calendar year in the consumer price index for urban wage
137 earners and clerical workers in the northeast urban area of New York-
138 Northern New Jersey-Long Island, NY-NJ-CT-PA, with no seasonal
139 adjustment, as calculated by the United States Department of Labor's
140 Bureau of Labor Statistics, with the amount of the standard rate of
141 wages increase rounded to the nearest five cents, or (2) the current
142 standard rate of wages, whichever is greater. The standard rate of
143 wages increase announced by the administrator not later than October
144 first shall become the new standard rate of wages and shall be effective
145 on the January first immediately following.

146 [(h)] (i) Where a required employer is awarded a contract to
147 perform services that are substantially the same as services that have
148 been rendered under a predecessor contract, such required employer
149 shall retain, for a period of ninety days, all employees who had been
150 employed by the predecessor to perform services under such

151 predecessor contract, except that the successor contract need not retain
152 employees who worked less than fifteen hours per week or who had
153 been employed at the site for less than sixty days. During such ninety-
154 day period, the successor contract shall not discharge without just
155 cause an employee retained pursuant to this subsection. If the
156 performance of an employee retained pursuant to this subsection or
157 section 4a-82 is satisfactory during the ninety-day period, the successor
158 contractor shall offer the employee continued employment for the
159 duration of the successor contract under the terms and conditions
160 established by the successor contractor, or as required by law. The
161 provisions of this subsection shall not apply to any contract covered by
162 section 31-57g or subsections (n) and (o) of section 4a-82.

163 [(i)] (j) Each required employer subject to the provisions of this
164 section shall (1) keep, maintain and preserve such records relating to
165 the wages and hours worked by each employee and a schedule of the
166 occupation or work classification at which each person is employed
167 during each work day and week in such manner and form as the Labor
168 Commissioner establishes to assure the proper payments due to such
169 employees, and (2) [annually] monthly or upon written request,
170 submit to the contracting state agent by mail, electronically or in such
171 other method is permitted by such state agent, a certified payroll
172 [which] that shall consist of a complete copy of such records
173 accompanied by a statement signed by the employer which indicates
174 that (A) such records are correct, (B) the rate of wages paid to each
175 employee is not less than the standard rate of wages required by this
176 section, (C) such employer has complied with the provisions of this
177 section, and (D) such employer is aware that filing a certified payroll
178 which it knows to be false is a class D felony for which such employer
179 may be fined not more than five thousand dollars or imprisoned not
180 more than five years, or both. Notwithstanding the provisions of
181 section 1-210, the certified payroll shall be considered a public record
182 and every person shall have the right to inspect and copy such record
183 in accordance with the provisions of section 1-212. The provisions of
184 subsections (a) and (b) of section 31-59, section 31-66 and section 31-69
185 which are not inconsistent with the provisions of this section shall

186 apply. Any person who files a false certified payroll in violation of
187 subdivision (2) of this subsection shall be guilty of a class D felony for
188 which such person may be fined not more than five thousand dollars
189 or imprisoned not more than five years, or both.

190 [(j)] (k) This section shall not apply to contracts, agreements or
191 grants which do not exceed forty-nine thousand nine hundred ninety-
192 nine dollars per annum.

193 [(k)] (l) On receipt of a complaint for nonpayment of the standard
194 rate of wages, the Labor Commissioner, the Director of Wage and
195 Workplace Standards and wage enforcement agents of the Labor
196 Department shall have power to enter, during usual business hours,
197 the place of business or employment of any employer to determine
198 compliance with this section, and for such purpose may examine
199 payroll and other records and interview employees, call hearings,
200 administer oaths, take testimony under oath and take depositions in
201 the manner provided by sections 52-148a to 52-148e, inclusive. The
202 commissioner or the director, for such purpose, may issue subpoenas
203 for the attendance of witnesses and the production of books and
204 records. Any required employer, an officer or agent of such employer,
205 or the officer or agent of any corporation, firm or partnership who
206 wilfully fails to furnish time and wage records as required by law to
207 the commissioner, the director or any wage enforcement agent upon
208 request or who refuses to admit the commissioner, the director or such
209 agent to a place of employment or who hinders or delays the
210 commissioner, the director or such agent in the performance of any
211 duties in the enforcement of this section shall be fined not less than
212 twenty-five dollars nor more than one hundred dollars, and each day
213 of such failure to furnish time and wage records to the commissioner,
214 the director or such agent shall constitute a separate offense, and each
215 day of refusal of admittance, of hindering or of delaying the
216 commissioner, the director or such agent shall constitute a separate
217 offense.

218 [(l)] (m) Notwithstanding subsection [(j)] (k) of this section, any

219 employer that pays the state for a franchise to provide food
 220 preparation or service, or both, for the state shall be required to certify
 221 that the wages and benefits paid to its employees are not less than the
 222 standard rate established pursuant to this section, provided, if no
 223 prevailing rate of wages or benefits was in effect at the time the state
 224 entered into a franchise agreement, then the employer shall not be
 225 required to pay the prevailing rate of wages or benefits during the life
 226 of the agreement, unless the agreement is amended, extended or
 227 renewed.

228 [(m)] (n) The Labor Commissioner may adopt regulations, in
 229 accordance with chapter 54, to carry out the provisions of this section.

230 [(n)] (o) The provisions of this section and any regulation adopted
 231 pursuant to subsection [(m)] (n) of this section shall not apply to any
 232 contract or agreement entered into before July 1, 2000.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	31-57f

LAB *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Various State Agencies	Various - Cost	None	Potential Significant
Quasi-Public Agencies	Various - Cost	See Below	See Below

Note: Various=Various

Municipal Impact:

Municipalities	Effect	FY 17 \$	FY 18 \$
Various Municipalities	Cost	Potential	Potential

Explanation

The bill extends the standard wage law to apply to quasi-public agencies and security guards, and establishes a mechanism whereby the standard rate of wage is indexed to inflation annually. This results in costs to various state agencies (in particular, quasi-public agencies) by requiring that certain contracted workers be paid at the standard wage rate for their position, as well as a potential cost to municipalities.¹

The provisions of the bill indexing the standard rate of wage to inflation result in a potentially significant cost beginning in FY 18 to any state agency or municipality employing personnel who are paid the standard wage.

The cost to quasi-public agencies would vary by job title and by

¹ CGS Sec. 32-602 permits the Capital Region Development Authority, a quasi-public state agency, to enter into contracts subject to standard wage rates in certain circumstances.

service provider. For example, in the case of food services, food service contractors may increase the price of meals, thus allowing the increase in revenue to offset the increase in personnel costs.² Other types of work, such as building maintenance services, may not have associated revenue to offset personnel costs, thus requiring the agency to cover the entirety of the cost increase.

The total cost per quasi-public state agency would also vary, dependent upon the nature of the work required at an individual agency.

The provisions of the bill extending the standard rate of wage law to security guards does not result in any fiscal impact to the state as they are already being compensated at or above the standard rate of wages. However, there may be costs to various municipalities to the extent they currently employ security guards who are paid below the standard wage.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

² Food services contractors generally bid to pay the state for the opportunity to provide food services in a state building.

OLR Bill Analysis**HB 5378*****AN ACT CONCERNING THE STANDARD RATE OF WAGES.*****SUMMARY:**

This bill extends the standard wage law to apply to (1) employers that are quasi-public agencies and (2) employees who are security guards. Under current law, the standard wage governs wages and benefits for employees of private contractors who do building and property maintenance, property management, and food service work in state buildings.

The bill also requires the labor commissioner to calculate and announce by October 1 each year any increase in the standard wage if there is an increase in the consumer price index (CPI) for urban wage earners when the last completed year is compared to the previous year.

Furthermore, it makes changes to the standard wage process that (1) agents of the state must follow to let a contract and (2) employers must follow when bidding on or administering a contract.

EFFECTIVE DATE: October 1, 2016

EXPANSION OF THE STANDARD WAGE LAW

The bill expands the type of employers covered under the standard wage law to include all the quasi-public agencies specified in statute including Connecticut Innovations, Inc., the Connecticut Health and Education Facilities Authority, and the Connecticut Airport Authority.

The standard wage law currently applies to approximately 50 job classifications, including food service worker, cashier, janitor, carpenter, window cleaner, and truck driver. While the statute does

not specify most job titles, the bill (1) adds employees providing security services and (2) specifies that after July 1, 2016, an employee working as a housekeeping aide must be classified as a light cleaner.

Currently, a state agent is the state official, state employee, or other person authorized to enter into a contract on the state's behalf. The bill extends this definition to apply to someone entering into a contract on behalf of a quasi-public agency.

INCREASES IN THE STANDARD WAGE

The bill also requires the labor commissioner to calculate and announce by October 1, 2017 and each following October any increase in the standard wage if there is an increase in the CPI for urban wage earners and clerical workers when the last completed year is compared to the prior year. (The bill uses the word "administrator," presumably "commissioner" was intended as the commissioner is authorized to take action under the standard wage law.)

The bill specifies the calculation must use the CPI for urban wage earners and clerical workers in the northeast urban area of New York, northern New Jersey, Long Island region, NY-NJ-CT-PA, with no seasonal adjustment, as determined by the federal Bureau of Labor Statistics, to determine any increase in the standard wage. The bill requires the wage adjustment be equal to either (1) the increase in CPI from one year to the next or (2) the current standard wage, whichever is greater. (Presumably, this means either the increase in CPI or, if there is no increase, the current standard wage is used.)

The bill requires any wage increase announced in October to become effective on the immediately following January 1.

PROCESS CHANGES

By law, a state agent empowered to let a standard wage contract must follow certain steps, including requesting the current standard wage rates from the labor commissioner, as part of the standard wage contract process. The bill also requires the agent to ask for the standard benefits for the contract and to include in the request for bids (1) the

rate of benefits (as well as the already-required rate of wages); (2) the number of work hours necessary to fulfill the contract; and (3) a worksheet, on a form the labor commissioner prescribes, listing the cost details of the required number of hours.

Under the standard wage law, the benefit rate is either the prevailing rate of benefits for a particular job class or, if none exist, an additional 30% of the standard wage amount per hour (for example a light cleaner earns \$12.50 an hour plus a benefit rate of \$4.11) (see BACKGROUND).

The bill also imposes additional requirements on employers submitting proposals seeking a standard wage contract, including (1) an indication of whether the employees are covered by a union contract and (2) if so, providing a copy of the contract with the proposal to the state, state agent, or quasi-public agency.

By law, an employer awarded a standard wage contract must maintain records of the wages and hours worked by each employee. The bill requires the employer to submit a certified payroll monthly, rather than annually, to the contracting state agent. It specifies the submission can be by mail, electronically, or by another method permitted by the state agent.

BACKGROUND

Determining Standard Wage Rates

By law, the labor commissioner determines the standard wage for each applicable nonsupervisory job classification based on the federal Register of Wage Determinations under the 1965 Service Contract Act (41 U.S.C. 351, et seq.), provided certain janitorial rates are linked to the rates in Hartford-area private sector collective bargaining agreements.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 8 Nay 5 (03/10/2016)